

Message Text

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PAGE 01 TOKYO 09124 01 OF 05 220810Z
ACTION EA-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03

INR-10 NSAE-00 ICA-11 TRSE-00 XMB-02 OPIC-03

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TO SECSTATE WASHDC 8101

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C O N F I D E N T I A L SECTION 01 OF 05 TOKYO 09124

DEPARTMENT PASS FEDERAL RESERVE BOARD

E.O. 11652: XGDS-1

TAGS: EFIN, JA

SUBJECT: TREATMENT OF U.S. BRANCH BANKS IN JAPAN

1. SUMMARY: THIS CABLE REVIEWS THE TREATMENT OF U.S. BANKS OPERATING IN JAPAN FROM THE PERSPECTIVE OF WHETHER DISCRIMINATION DOES OR DOES NOT EXIST IN IMPORTANT RESPECTS. WE FIND SOME DISCRIMINATION BOTH AGAINST AND IN FAVOR OF FOREIGN BRANCHES. BUT DISCRIMINATION, OR LACK OF NATIONAL TREATMENT, DOES NOT APPEAR TO BE THE MOST IMPORTANT CONCERN OF U.S. BANKS OPERATING IN JAPAN. MANY AMERICAN BANKS OPERATING HERE FORESEE A SECULAR DECLINE IN THEIR TRADITIONAL DOLLAR LENDING BUSINESS AND THEY RECEIVE A MAZE OF DIFFICULTIES IN DEVELOPING YEN FUNDING TO SUPPORT NEW ALTERNATIVE BUSINESS. AS A BY-PRODUCT OF OUR REVIEW OF TREATMENT OF U.S. BANKS, A NUMBER OF THE REGULATORY ISSUES CONFRONTING THE FOREIGN BANKS ARE SUMMARIZED. BUT THIS CABLE DOES NOT SEEK TO DEAL DIRECTLY WITH THE PROBLEM OF RECIPROCITY. END SUMMARY.

2. INTRODUCTION: EMBASSY HAS HAD OCCASION RECENTLY TO
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PAGE 02 TOKYO 09124 01 OF 05 220810Z

REVIEW WITH THE MINISTRY OF FINANCE (MOF), BANK OF JAPAN (BOJ) AND A SAMPLING OF AMERICAN BANKING OFFICES IN TOKYO QUESTIONS RELATING TO THE TREATMENT OF AMERICAN BANKS OPERATING HERE. THESE DISCUSSIONS TENDED TO FOCUS PRIMARILY ON THE QUESTION OF DISCRIMINATION BUT ALSO EXTENDED TO BROADER ISSUES OF THE ROLE AND PROSPECTS OF FOREIGN BANKS IN JAPAN. THE FOREIGN BANKS, PARTICULARLY

THE AMERICAN BANKS, HAVE TRADITIONALLY CARVED OUT A SPECIALIZED ROLE IN THE JAPANESE FINANCIAL MARKET AS CONDUITS TO FACILITATE THE IMPORT OF CAPITAL BOTH TO FINANCE INDUSTRIAL DEVELOPMENT AND TO FINANCE FOREIGN TRADE. THE PARTICULAR ADVANTAGE U.S. BANKS HAVE HAD AS INTERMEDIARIES OF DOLLAR FINANCING RISKS BEING GRADUALLY ERODED AS THE REQUIREMENTS FOR SUCH FINANCING DIMINISH. AS U.S. BANKS CAST ABOUT FOR A NEW NICHE, MANY FEEL INCREASINGLY STRAIGHTJACKETED BY THE JAPANESE REGULATORY ENVIRONMENT AND THE UNDERDEVELOPED DOMESTIC YEN FINANCIAL MARKETS.

3. AMERICAN BANKS WITH WHOM WE TALK EMPHASIZE THAT UNDER JAPANESE BANKING PRACTICE ADMINISTRATIVE GUIDANCE IS EXTENSIVE, WITH THE AUTHORITIES EXERCISING WIDE DISCRETION IN CONFERRING OR WITHHOLDING PRIVILEGES. FINANCIAL INSTITUTIONS, ONCE ESTABLISHED, FEEL THEY ARE BOTH PROTECTED AND CIRCUMSCRIBED. THE AUTHORITIES CLEARLY TAKE INTO ACCOUNT THE SIZE, STANDING AND GENERAL REPUTATION OF EACH BANK IN JUDGING WHAT IT MAY BE PERMITTED TO DO - OR ENJOINED FROM DOING. BECAUSE SO MANY DECISIONS ARE ON A CASE-BY-CASE BASIS, GENERALIZATION ABOUT THE OVERALL TREATMENT OF FOREIGN BANKS IS DIFFICULT; AND EVEN SOME BANKS THEMSELVES DO NOT UNDERSTAND FULLY WHETHER THEY ARE ENTITLED TO, OR ARE RECEIVING, NON-DISCRIMINATORY TREATMENT.

4. SOME STATISTICAL BACKGROUND: MOF DATA SHOW THAT
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PAGE 03 TOKYO 09124 01 OF 05 220810Z

FOREIGN BANKS' SHARE OF BOTH TOTAL JAPANESE BANK DEPOSITS AND BANK LOANS SLIPPED IN THE YEAR ENDING LAST SEPTEMBER, THE LATEST DATE FOR WHICH OFFICIAL DATA ARE AVAILABLE.

PERCENTAGE OF FOREIGN BANK DEPOSITS AND LOANS TO TOTAL DEPOSITS AND LOANS OF ALL JAPANESE BANKS (NOTE):

- DEPOSITS LOANS

AVG 1969-72 0.76 1.40

1973 0.96 1.85

SEP 1974 1.05 2.45

SEP 75 1.05 3.06

SEP 76 .99 3.37

SEP 77 .82 2.99

(NOTE: "ALL BANKS" INCLUDES COMMERCIAL BANKS, THE SPECIAL-

IZED FOREIGN EXCHANGE BANK (BANK OF TOKYO) AND LONG-TERM CREDIT BANKS AND TRUST BANKS.)

PRESS ACCOUNTS SUGGEST THE FOREIGN BANKS' SHARE OF THE MARKET HAS CONTINUED TO DECLINE SINCE SEP 77. THE DIFFERENT WEIGHTING FOR LOANS AND DEPOSITS REFLECTS BOTH THE RELIANCE OF FOREIGN BANKS ON MONEY MARKET FUNDING (BOTH FOR DOLLARS AND YEN) AND THE SMALL AMOUNT OF SECURITIES THEY HOLD, AS COMPARED WITH JAPANESE BANKS.

5. AS OF OCT 77, 58 FOREIGN BANKS HAD ESTABLISHED 80

CONFIDENTIAL

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PAGE 01 TOKYO 09124 02 OF 05 220821Z
ACTION EA-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03

INR-10 NSAE-00 ICA-11 TRSE-00 XMB-02 OPIC-03

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C O N F I D E N T I A L SECTION 02 OF 05 TOKYO 09124

DEPARTMENT PASS FEDERAL RESERVE BOARD

BRANCHES IN JAPAN, AND 83 OTHER BANKS HAD REPRESENTATIVE OFFICES HERE. AT THAT SAME TIME, 22 JAPANESE BANKS HAD ESTABLISHED 116 BRANCHES OR AGENCIES AND 24 JAPANESE BANKS (INCLUDING SOME OF THE FOREGOING WITH BRANCHES) HAD 131 REPRESENTATIVE OFFICES OVERSEAS; AND TEN BANKS HAD OR PARTICIPATED IN 26 OVERSEAS SUBSIDIARIES. WITHIN THESE TOTALS, 22 U.S. BANKS HAD 34 BRANCHES; AND 12 OTHER U.S. BANKS HAD REP OFFICES IN JAPAN. TWENTY-TWO JAPANESE BANKS HAD 48 BRANCHES OR AGENCIES AND 16 REP OFFICES IN THE U.S., AND TEN PARTICIPATED IN 13 SUBSIDIARIES.

6. ESTABLISHMENT:

A. BRANCHES: MOF FOLLOWS A PRINCIPLE OF RECIPROCITY IN LICENSING FOREIGN BRANCHES. IN THE CASE OF U.S. BANKS, THIS IS INTERPRETED TO MEAN ONLY AMERICAN BANKS FROM

STATES WHICH PERMIT JAPANESE BANKS TO OPERATE WILL BE PERMITTED TO OPEN BRANCHES IN TOKYO. THIS HAS CREATED DIFFICULTIES FOR BANKS FROM SEVERAL STATES, MOST NOTEWORTHY FROM TEXAS. APPARENTLY THERE HAVE BEEN EXCEPTIONS TO THIS PRINCIPLE; THE MELLON BANK FROM PENNSYLVANIA, FIRST
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TOKYO 09124 02 OF 05 220821Z

NATIONAL BANK OF BOSTON, AND THE NATIONAL BANK OF DETROIT WERE AUTHORIZED TO OPEN BRANCHES IN TOKYO AT A TIME WHEN THOSE STATES REPORTEDLY DID NOT PERMIT FOREIGN BRANCHES. THERE IS AN OUTSTANDING QUESTION AS TO WHETHER AN AGREEMENT BANK OPENED IN TEXAS BY THE BANK OF TOKYO WILL BE CONSTRUED BY THE JAPANESE AUTHORITIES AS PROVIDING THE BASIS FOR RECIPROCAL PERMISSION FOR TEXAS BANKS TO OPEN BRANCHES IN TOKYO. OUR PRESENT UNDERSTANDING IS THAT MOF BELIEVES AGREEMENT BANK OPERATIONS ARE TOO LIMITED TO PERMIT RECIPROCITY.

B. SUBSIDIARIES: FOREIGN OWNERSHIP OF JAPANESE BANKS IS RESTRICTED BY JAPANESE LAW TO NO MORE THAN 5 PCT OF THE EQUITY OF A JAPANESE BANKS. SINCE LACK OF EASY ACCESS TO YEN FUNDS IS A CHRONIC COMPLAINT OF FOREIGN BANKS, IT IS QUITE LIKELY SOME WOULD FIND IT ATTRACTIVE TO BUY INTO EXISTING JAPANESE BANKS, WERE THIS PERMITTED.

7. MULTIPLE BRANCHING:
THE GOJ ATTITUDE TOWARD BRANCHING WITHIN JAPAN HAS BEEN RESTRICTIVE FOR BOTH JAPANESE BANKS AND AMERICAN BANKS. HOWEVER, IN FACT, FOR MANY YEARS FOREIGN BANKS HAVE BEEN PERMITTED TO OPEN ONLY ONE BRANCH HERE. SOME U.S. BRANCHES ARE PROHIBITED FROM FURTHER BRANCHING BY TERMS OF THEIR CHARTER. OTHER AMERICAN BANKS IN THE PAST HAVE BEEN ALLOWED TO OPEN, AND DO OPERATE, MULTIPLE BRANCHES. RECENTLY, MOF/BOJ OFFICIALS HAVE INDICATED THAT THEY WOULD REVIEW FAVORABLY REQUESTS BY FOREIGN BANKS TO ESTABLISH ADDITIONAL BRANCHES IN JAPAN NOW THAT REQUESTS FOR NEW ENTRIES HAVE APPARENTLY SUBSIDED. THE ECONOMIC ATTRACTIVENESS OF BRANCHING FOR MANY FOREIGN BANKS IS, HOWEVER, NOT CLEAR.

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PAGE 03 TOKYO 09124 02 OF 05 220821Z

8. ACCESS TO YEN FUNDS:

A. SWAPS: FOREIGN BRANCHES ARE PERMITTED TO SWAP FOREIGN CURRENCY INTO YEN, COVERING FORWARD, IN ORDER TO RAISE

YEN FUNDS FOR LENDING IN JAPAN. REPORTS SUGGEST THESE SWAP LINES TOTAL \$2.6 BIL. BANK-BY-BANK LIMITS ARE PLACED ON THE SIZE OF THESE SWAP LINES. THE SWAP LIMITS ARE SET IN DOLLARS SO THEIR YEN VALUE FLUCTUATES WITH THE EXCHANGE RATE. FROM TIME TO TIME THE BANK OF JAPAN HAS INCREASED THE SIZE OF THE SWAP LINES. ALTHOUGH NO CLEAR PRINCIPLES SEEM TO GUIDE THESE ADJUSTMENTS, THEY APPEAR TO BE PREDICATED ON FOREIGN EXCHANGE MARKET CONDITIONS, BALANCE OF PAYMENTS POSITION, AND THE BANK'S STANDING AND REPUTATION IN THE TOKYO MARKET. THE GOJ HAS RECENTLY INDICATED THEY WOULD BE PREPARED TO INCREASE THESE LINES FURTHER. JAPANESE BANKS ARE NOT PERMITTED SWAP LINES. TO THIS EXTENT THERE IS DISCRIMINATION IN FAVOR OF THE FOREIGN BANKS.

B. YEN DEPOSITS: ACCESS TO YEN DEPOSITS BY THE FOREIGN BRANCHES IS LIMITED BY A NUMBER OF FACTORS. THERE ARE CUSTOMARY CONVENTIONS ABOUT THE EXTENT OF DEPOSIT SOLICITATION BANKS MAY DO. BOJ ATTITUDES REINFORCE THIS. AT LEAST ONE U.S. BRANCH SAYS ITS CHARTER PROHIBITS SOLICITATION OF PERSONAL DEPOSITS. COMPENSATING BALANCES FROM CUSTOMERS, ANOTHER POTENTIAL SOURCE OF YEN DEPOSITS, ARE VIEWED BY THE AUTHORITIES AS UNDESIRABLE. THEY DO IN PRACTICE EXIST BOTH IN JAPANESE BANKS AND FOREIGN BANKS BUT THEY ARE NOT A PART OF FORMAL LOAN AGREEMENTS. ISSUANCE OF CD'S IS PROHIBITED IN THE TOKYO MARKET; IT HAS NOT BEEN CLARIFIED WHETHER AS A LEGAL MATTER THEY COULD IF DESIRED BE INTRODUCED ADMINISTRATIVELY OR WHETHER LEGISLATION WOULD BE REQUIRED. THE NET RESULT IS THAT FOREIGN BRANCHES HAVE FEW DEPOSIT SOURCES OF YEN FUNDS. DISCRIMINATION IN THIS AREA EXISTS TO THE EXTENT THAT

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PAGE 01 TOKYO 09124 03 OF 05 220832Z
ACTION EA-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03

INR-10 NSAE-00 ICA-11 TRSE-00 XMB-02 OPIC-03

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 8103

TREASURY/DEP WASHDC

CONFIDENTIAL SECTION 03 OF 05 TOKYO 09124

SPECIAL RESTRICTIONS HAVE BEEN PLACED ON SOME U.S. BRANCHES' SOLICITATION OF DEPOSITS, BUT IN OTHER RESPECTS DISCRIMINATION DOES NOT SEEM TO BE A FACTOR.

C. BILL DISCOUNT AND CALL MONEY MARKET: FOREIGN BRANCHES MAY RAISE YEN FUNDS BY BORROWING IN THE BILL DISCOUNT MARKET. THIS TENDS TO BE A HIGHER-COST SOURCE OF FUNDS. HOWEVER, THERE IS NO DISCRIMINATION. ACCESS TO THE CALL MONEY MARKET IS PERMITTED BUT APPARENTLY REGULATED BY THE BOJ ON A BANK-BY-BANK BASIS. BANKS ARE ALSO LIMITED BY A FORMULA THAT CALLS FOR NO MORE THAN ONE YEN OF CALL MONEY FOR EACH TWO YEN OF BILL MONEY. GUIDELINES FOR JAPANESE BANKS ARE BELIEVED TO BE SIMILAR SO THERE IS NO APPARENT DISCRIMINATION.

D. BANK DEBENTURES: JAPANESE COMMERCIAL BANKS WITH ONE EXCEPTION ARE NOT PERMITTED TO ISSUE BANK DEBENTURES. THE EXCEPTION IS THE BANK OF TOKYO. BECAUSE THE BANK OF TOKYO HAS ONLY LIMITED SOURCES OF DOMESTIC YEN FUNDS, THE SPECIAL LEGISLATION UNDER WHICH IT IS CHARTERED PERMITS IT TO ISSUE YEN DEBENTURES. THE ABSENCE OF SIMILAR CONSIDERATION FOR THE FOREIGN BRANCHES APPEARS TO BE A FORM OF DISCRIMINATION VIS-A-VIS BOTH FOREIGN BRANCHES AND OTHER

CONFIDENTIAL

PAGE 02 TOKYO 09124 03 OF 05 220832Z

JAPANESE COMMERCIAL BANKS, BUT OF MORE SIGNIFICANCE IN THE FORMER CASE.

E. INTER-BANK CREDIT LINES: DURING THE LAST PERIOD OF TIGHT MONEY, THE BOJ ISSUED WINDOW GUIDANCE TO JAPANESE BANKS TO LIMIT THEIR YEN LENDING TO FOREIGN BANKS. THIS WAS CONSTRUED BY THE JAPANESE AUTHORITIES AS AN ASPECT OF DOMESTIC MONETARY CONTROL RATHER THAN DISCRIMINATION SINCE THE BOJ HAD IMPOSED LENDING LIMITS ON DOMESTIC BANKS AND EXEMPTING CREDIT TO FOREIGN BANKS MIGHT HAVE UNDERMINED THAT POLICY. SOME AMERICAN BANKS EXPRESSED THE VIEW THAT FOREIGN BANKS HAD BEEN TREATED ARBITRARILY. THIS WINDOW GUIDANCE HAS BEEN REMOVED AND THE BOJ HAS RECENTLY GONE TO SOME TROUBLE TO SPREAD THE WORD TO JAPANESE BANKS THAT IT HAS NO OBJECTIONS TO THEIR EXPANDING CREDIT LINES TO FOREIGN BANKS. ON THE BASIS OF THEIR EARLIER EXPERIENCE, HOWEVER, SOME AMERICAN BANKS HOLD TO THE VIEW THAT BANK BORROWING REPRESENTS AN UNDEPENDABLE FUNDING SOURCE, SUBJECT TO ARBITRARY OFFICIAL RESTRAINTS. THERE IS NO EVIDENCE OF DISCRIMINATION.

9. ACCESS TO BOJ CREDIT:

A. BOJ POLICY POSITION IS THAT THERE IS NO DISCRIMINATION AGAINST FOREIGN BANKS IN THE EXTENSION OF BOJ CREDIT. THE BOJ RECENTLY CLARIFIED THAT FOREIGN BRANCHES WOULD BE ABLE TO PARTICPATE IN THE REVIVED IMPORT SETTLEMENT BILL SYSTEM ON AN EQUAL FOOTING WITH DOMESTIC BANKS. SOME CONFUSION APPEARED TO EXIST AMONG AMERICAN BRANCHES REGARDING ACCESS TO OTHER BOJ FACILITIES. (APPARENTLY MOST AMERICAN BRANCHES BELIEVE THAT DIRECT ACCESS TO BOJ BORROWING WOULD ENTAIL SUCH STRINGENT CONDITIONS THEY WOULD NOT WISH TO AVAIL THEMSELVES OF IT, IF AVAILABLE.)

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PAGE 03 TOKYO 09124 03 OF 05 220832Z

SOME AMERICAN BANKS HAVE ESTABLISHED CURRENT ACCOUNTS AND LOAN AGREEMENTS WITH THE BOJ. THE BOJ EXTENDS SUCH FACILITIES ON A CASE-BY-CASE BASIS AND NOT ALL BANKS, EITHER JAPANESE OR FOREIGN HAVE QUALIFIED.

B. INDIRECT ACCESS TO BOJ CREDIT IS AVAILABLE THROUGH THE BILL DISCOUNT MARKET. THERE IS NO DISCRIMINATION BETWEEN FOREIGN AND DOMESTIC BANKS IN THE BILL MARKET OPERATIONS BUT SOME CONFUSION ON THIS POINT ALSO SEEMED TO EXIST AMONG SOME AMERICAN BANKS. QUESTIONS WERE RAISED ABOUT WHETHER OR NOT THE BOJ WOULD ACTUALLY QUALIFY MUCH OF THEIR PAPER FOR BOJ PURCHASE. HOWEVER, THE BOJ INSISTS THAT IT QUALIFIES BOTH PAPER THAT MEETS NORMAL STANDARDS (FIRM LISTED ON TOKYO STOCK EXCHANGE AND MAKING PROFITS) AND THE PAPER OF OTHER COMPANIES THAT A BANK CAN DEMONSTRATE BY BALANCE SHEET AND INCOME DATA ARE IN A SOUND POSITION -- REGARDLESS OF WHETHER THE SELLING BANK IS DOMESTIC OR A FOREIGN BRANCH, OR THE COMPANY DOMESTIC OR FOREIGN. THIS WAS CONFIRMED BY AT LEAST ONE AMERICAN BANK.

C. A THIRD WAY THE BOJ PROVIDES CREDIT TO THE BANKING SYSTEM IS THROUGH THE PERIODIC PURCHASE OF GOVT SECURITIES FROM THE BANKS. BECAUSE THEY ARE CHRONICALLY SHORT OF YEN FUNDS, FOREIGN BRANCHES ARE NOT REQUIRED TO PARTICPATE IN THE TAKEUP OF NEWLY ISSUED GOVT SECURITIES AS ARE JAPANESE COMMERCIAL BANKS. SINCE THE FOREIGN BRANCHES, BY AND LARGE, ARE NOT SIGNIFICANT HOLDERS OF GOVT SECURITIES, THIS SOURCE OF BOJ CREDIT IS NOT AVAILABLE TO THEM. THIS WOULD NOT SEEM TO CONSTITUTE DISCRIMINATION AGAINST FOREIGN BRANCHES; AND THE VIEW IS SOMETIMES EXPRESSED THAT NOT REQUIRING THEM TO PURCHASE GOVT SECURITIES REPRESENTS DISCRIMINATION IN THEIR FAVOR.

CONFIDENTIAL

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PAGE 01 TOKYO 09124 04 OF 05 220844Z

ACTION EA-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03

INR-10 NSAE-00 ICA-11 TRSE-00 XMB-02 OPIC-03

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CONFIDENTIAL SECTION 04 OF 05 TOKYO 09124

DEPARTMENT PASS FEDERAL RESERVE BOARD

10. ACCESS TO SPECIAL FOREIGN CURRENCY FACILITIES:

A. THE GOJ OPERATES AT LEAST TWO SCHEMES THAT HAVE THE EFFECT OF LENDING THE OFFICIAL RESERVES TO BANKS AT PREFERENTIAL RATES. UNDER ONE SCHEME, BANKS ARE PERMITTED TO BORROW YEN FROM THE BOJ AT THE OFFICIAL DISCOUNT RATE, SWAP THE YEN FOR FOREIGN CURRENCY FROM MOF WITH A SMALL CHARGE FOR FORWARD COVER, AND LEND THE PROCEEDS FOR IMPORT FINANCING. FOREIGN BANKS HAVE BEEN EXCLUDED FROM THIS SCHEME. THE RESULT IS TO GIVE JAPANESE BANKS A COMPETITIVE ADVANTAGE IN DOLLAR IMPORT FINANCING, A BUSINESS IN WHICH THE AMERICAN BANKS HAVE OTHERWISE BEEN VERY COMPETITIVE.

B. A SEPARATE SCHEME, OF LONG STANDING, IS THE DIRECT DEPOSIT OF OFFICIAL RESERVES WITH THE FOREIGN EXCHANGE BANKS. UNTIL RECENTLY THE DEPOSITS HAD FOR SEVERAL YEARS BEEN MAINTAINED AT A STABLE LEVEL OR RUN DOWN. SOME OF THE LARGER AMERICAN BANKS RECEIVED SUCH DEPOSITS WHEN THEY WERE ORIGINALLY MADE AND WE UNDERSTAND THESE DEPOSITS HAVE BEEN MAINTAINED. THERE DOES NOT APPEAR TO BE DISCRIMINATION BETWEEN FOREIGN AND DOMESTIC BANKS IN THIS

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PAGE 02 TOKYO 09124 04 OF 05 220844Z

MATTER. NOT ALL BANKS, APPARENTLY, ARE INCLUDED IN THE SCHEME AND NO INFORMATION IS AVAILABLE TO US ON THE GOJ CRITERION FOR ALLOCATING SUCH DEPOSITS.

11. LENDING:

A. THE GOJ EXERCISES SOME QUANTITATIVE AND QUALITATIVE CONTROLS OVER BANKS' LENDING BUT NO DISCRIMINATION IN THIS RESPECT WAS NOTED.

B. WITH A FEW EXCEPTIONS, IMPACT LENDING HAS GENERALLY BEEN RESERVED TO THE FOREIGN BRANCHES. IMPACT LOANS ARE USUALLY DEFINED AS FOREIGN CURRENCY LOANS TO JAPANESE CORPORATIONS WHICH MAY BE USED TO MEET GENERAL REQUIREMENTS FOR FUNDING, I.E. THEY NEED NOT BE LINKED TO FINANCING OF FOREIGN TRADE OR INVESTMENT ABROAD. CEILINGS FOR SUCH LENDING ARE SET ON A QUARTERLY, BANK-BY-BANK BASIS. THIS REPRESENTS A CASE OF DISCRIMINATION IN FAVOR OF FOREIGN BRANCHES VIS-A-VIS DOMESTIC BANKS.

12. COMMENT: EMBASSY WOULD ADD SEVERAL GENERAL POINTS TO THE FOREGOING. ONE WOULD BE THAT WE HAVE NOT SOUGHT TO DEAL DIRECTLY WITH THE QUESTION OF RECIPROCITY, WHICH, IN SOME CASES, FOR EXAMPLE ESTABLISHMENT, SEEMS TO BE A MORE IMPORTANT CONSIDERATION THAN DISCRIMINATION. ANOTHER RELEVANT CONSIDERATION IS THAT THE FOREIGN BRANCHES HERE ARE NOT ONLY CAREFULLY CONTROLLED BUT ALSO CAREFULLY PROTECTED. THE CONTROLS BOTHER THEM; THE PROTECTION IS GRATEFULLY ACCEPTED. AS AN EXAMPLE, THE FOREIGN BANKS ARE APPARENTLY NOT REQUIRED TO PARTICIPATE IN THE BAIL-OUT OPERATIONS FREQUENTLY REQUIRED UNDER THE JAPANESE SYSTEM OF DOING BUSINESS. IT SEEMS UNLIKELY THAT THEY WOULD BE ALLOWED TO OPERATE IN A RELATIVELY UNFETTERED

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 TOKYO 09124 04 OF 05 220844Z

FASHION WHILE STILL ENJOYING SUCH PROTECTION. MORE BASICALLY, IT SHOULD BE KEPT IN MIND THAT THE FUTURE OF AMERICAN BRANCHES HERE MAY DEPEND LESS ON WHETHER THEY RECEIVE NON-DISCRIMINATORY TREATMENT THAN ON ACHIEVING STRUCTURAL CHANGES IN THE JAPANESE FINANCIAL SYSTEM. IN PARTICULAR, DEPENDABLE ACCESS TO YEN FUNDS FOR THEIR ESSENTIALLY WHOLESALE OPERATION MAY ONLY BE POSSIBLE IF INSTRUMENTS SUCH AS CERTIFICATES OF DEPOSIT ARE INTRODUCED INTO THE JAPANESE BANKING SYSTEM.

13. FINALLY, EMBASSY RECALLS THAT THE FOREGOING REPRESENTS A DISTILLATION OF WHAT WE HAVE LEARNED FROM SOURCES IN THE AMERICAN BANKING COMMUNITY HERE AND IN CONTACTS WITH THE GOJ FINANCIAL AUTHORITIES. HOWEVER, THE JAPANESE FINANCIAL SYSTEM IS NOT THE EASIEST SYSTEM TO UNDERSTAND, AND, AS WE NOTED EARLIER, EVEN SOME BANKS THEMSELVES DO NOT SEEM TO UNDERSTAND FULLY WHAT THEY CAN OR CAN'T DO. THUS, WE WOULD BE SURPRISED IF THIS MESSAGE DID NOT CONTAIN SOME FACTUAL ERRORS (MINOR WE HOPE) OR AT

LEAST LACK PERSPECTIVE IN SOME RESPECT. WE CONSIDERED CIRCULATING OUR DRAFT FOR COMMENT TO AMERICAN BANKS AND TO JAPANESE FINANCIAL AUTHORITIES; BUT WE DECIDED AGAINST IT BECAUSE TO DO SO WOULD BE TANTAMOUNT TO ENTERING INTO NEGOTIATION REGARDING THE TREATMENT OF OUR BRANCHES HERE. SUCH A NEGOTIATION PRESUPPOSES ACHIEVEMENT OF SOME SORT OF CONSENSUS AMONG U.S. BRANCHES HERE AS TO OBJECTIVES, AND THAT CONSENSUS SEEMS TO US CLEARLY NOT TO EXIST. IN PARTICULAR, THE TREATMENT -- AND THE INTERESTS -- OF THE WELL-ESTABLISHED BRANCHES SEEM TO DIFFER FROM THOSE OF THE NEWER ONES, AND EFFORTS TO SERVE ONE GROUP COULD WELL BE TO THE DISADVANTAGE OF THE OTHER. A WIDELY CIRCULATED PAPER WOULD ALSO RISK REDOUNDING TO THE BENEFIT OF FOREIGN BRANCHES FROM OTHER COUNTRIES, WHO FEEL THAT THEY ARE OFTEN NOT AS WELL TREATED AS THE AMERICAN BRANCHES. IN ANY CASE, WE IMAGINE THAT USG INTERVENTION IS MOST APT TO BE GENERALLY WELCOMED IN BROAD AND LESS CONTROVERSIAL

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 TOKYO 09124 04 OF 05 220844Z

CONFIDENTIAL

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PAGE 01 TOKYO 09124 05 OF 05 220845Z
ACTION EA-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03

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C O N F I D E N T I A L SECTION 05 OF 05 TOKYO 09124

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AREAS SUCH AS IMPROVED ACCESS TO YEN FUNDS. RATHER THAN ON SUCH TOUCHY QUESTIONS AS DISCRIMINATION.

14. THESE SAME CONSIDERATIONS LEAD US TO SUGGEST THAT
THIS MESSAGE NOT BE MADE PUBLIC. THIS MESSAGE ALSO
CONTAINS INFORMATION PROVIDED IN CONFIDENCE BY BOTH GO
FINANCIAL AUTHORITIES AND U.S. COMMERCIAL BANKS.
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Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2611606
Secure: OPEN
Status: NATIVE
Subject: TREATMENT OF U.S. BRANCH BANKS IN JAPAN
TAGS: EFIN, JA
To: STATE TRSY
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/4da90799-c288-dd11-92da-001cc4696bcc
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